

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Hearing Date: December 11, 2014
Hearing Time: 9:30 pm

-----X
In re:

Chapter 13
Case No.: 14-74304-LAS

GEETA SHUKLA,

Debtor.
-----X

NOTICE OF MOTION TO DISMISS CHAPTER 13 CASE

PLEASE TAKE NOTICE, that Vidyasagar Lingchetty a creditor and party in interest in the above captioned matter, by and through his attorneys, Spence Law Office, P.C., will move before the Hon. Louis A. Scarcella, United States Bankruptcy Judge, at the United States Bankruptcy Court, at 290 Federal Plaza, Room 760, Central Islip, New York, 11722, on the 11th day of December, 2014 at 9:30 AM or as soon thereafter as counsel can be heard, for an order pursuant to 11 U.S.C. §§ 1307 and 109(e) dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the bankruptcy court and served upon the Movant's counsel, Robert J. Spence, no later than three (3) business days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Dated: Jericho, New York
November 21, 2014

SPENCE LAW OFFICE, P.C.
Attorneys for Vidyasagar Lingchetty

BY: /s/John Lehr
John Lehr, Esq.
500 N. Broadway, Suite 149
Jericho, New York 11753
(516) 336-2060

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 13
Case No.: 14-74304-LAS

GEETA SHUKLA,

Debtor.
-----X

MOTION TO DISMISS CHAPTER 13 CASE

John Lehr, an attorney admitted to practice before this Court, affirms the following to be true under the penalties of perjury:

1. My office represents Vidyasagar Lingechetty (the “Movant”), a creditor and party in interest in the above captioned matter and as such am familiar with the facts and circumstances of this bankruptcy case and the subject matter of the instant motion.

2. The Debtor filed her Chapter 13 Petition with this Court on September 18, 2014 (the “Filing Date”).

3. The Movant joins in the Trustee’s Motion to Dismiss filed with the Court on November 19, 2014 (DKT No 27). In addition the Movant respectfully requests that the Court dismiss the Chapter 13 case on the additional ground that the Debtor is not qualified to be a Debtor under Chapter 13 under 11 U.S.C. §109(e).

4. Currently, HSBC NA has filed a secured claim on account of a mortgage filed against the Debtor’s residence in the amount of \$710,916.60 (Claim No. 5-1), New York State has filed a secured claim, upon information and belief on account of a tax warrant in the amount of \$63,092.62 (Claim No. 1-1), and the Movant has filed a secured claim on account of a judgment lien held against the Debtor’s residence in the amount of \$492,207.42 (Claim No. 4-2). A copy of the claims register

is annexed hereto as Exhibit A. Accordingly, the secured claims in the case total \$1,266,126.64.

5. Pursuant to 11 U.S.C §109(e):

Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than **\$383,175** and noncontingent, liquidated, secured debts of less than **\$1,149,525**....may be a debtor under chapter 13 of this title.

11 U.S.C.A. § 109 (West)

6. The Debtor's secured debts exceed the maximum allowable secured debt for a Chapter 13 Debtor by over \$100,000.00. Even if the Court should deduct the Debtor's valuation of her home (\$880,000) and bifurcate the secured claims, the Debtor will then have approximately \$392,152.24 in unsecured claims, which is above the maximum allowed under 11 U.S.C. §109(e). Furthermore, the Debtor has filed a motion seeking to another \$150,000.00 of the Movant's judgment lien in favor of her homestead exemption pursuant to 11 USC §522(f) (DKT No. 21). Should the Court grant such relief, there will be over \$540,000 in unsecured debt. Thus the Debtor certainly does not and cannot qualify to be a debtor under Chapter 13, and the case must be dismissed.

WHEREFORE, the Movant respectfully requests that the Court issue an order dismissing the instant Chapter 13 case and granting such other and further relief as this Court deems just and proper.

Dated: Jericho, New York
November 21, 2014

SPENCE LAW OFFICE, P.C.
Attorneys for Vidyasagar Lingchetty

By: s/ John Lehr

John Lehr, Esq. (JL3495)
500 North Broadway, Suite 149
Jericho, New York 11753
(516) 336-2060

EXHIBIT A

Eastern District of New York Claims Register

[8-14-74304-las Geeta Shukla](#)

Judge: Louis A. Scarcella**Chapter:** 13**Office:** Central Islip**Last Date to file claims:** 02/02/2015**Trustee:** Marianne DeRosa**Last Date to file (Govt):** 03/17/2015

| | | | | | | | | | | | | | | | | | | | | |
|--|--|---|-------------------------|---|---------------------|------------|---|--|---------|----------|------------|--|--|--|----------|----------|-----------|--|--|--|
| Creditor: (8417683) NY State Dept. of Tax and Finance Bankruptcy Section P.O. Box 5300 Albany, NY 12205 | Claim No: 1 <i>Original Filed</i> Date: 09/26/2014 <i>Original Entered</i> Date: 09/26/2014 | Status: <i>Filed by:</i> CR <i>Entered by:</i> Elaine Wallace Braden <i>Modified:</i> | | | | | | | | | | | | | | | | | | |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Amount</td> <td style="width: 10%;">claimed:</td> <td style="width: 15%;">\$65299.53</td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> </tr> <tr> <td>Secured</td> <td>claimed:</td> <td>\$63092.62</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Priority</td> <td>claimed:</td> <td>\$1850.16</td> <td></td> <td></td> <td></td> </tr> </table> | | | Amount | claimed: | \$65299.53 | | | | Secured | claimed: | \$63092.62 | | | | Priority | claimed: | \$1850.16 | | | |
| Amount | claimed: | \$65299.53 | | | | | | | | | | | | | | | | | | |
| Secured | claimed: | \$63092.62 | | | | | | | | | | | | | | | | | | |
| Priority | claimed: | \$1850.16 | | | | | | | | | | | | | | | | | | |
| History: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Details</td> <td style="width: 5%;"></td> <td style="width: 10%;">1-1</td> <td style="width: 15%;">09/26/2014</td> <td style="width: 60%;">Claim #1 filed by NY State Dept. of Tax, Amount claimed: \$65299.53 (Braden, Elaine)</td> </tr> </table> | | | Details | | 1-1 | 09/26/2014 | Claim #1 filed by NY State Dept. of Tax, Amount claimed: \$65299.53 (Braden, Elaine) | | | | | | | | | | | | | |
| Details | | 1-1 | 09/26/2014 | Claim #1 filed by NY State Dept. of Tax, Amount claimed: \$65299.53 (Braden, Elaine) | | | | | | | | | | | | | | | | |
| Description: (1-1) Pre petition proof of claim | | | | | | | | | | | | | | | | | | | | |
| Remarks: | | | | | | | | | | | | | | | | | | | | |

| | | | | | | | | |
|---|--|--|-------------------------|---|---------------------|------------|---|--|
| Creditor: (8427580) Discover Bank DB Servicing Corporation PO Box 3025 New Albany, OH 43054-3025 | Claim No: 2 <i>Original Filed</i> Date: 10/03/2014 <i>Original Entered</i> Date: 10/03/2014 | Status: <i>Filed by:</i> CR <i>Entered by:</i> Mandy Dingus <i>Modified:</i> | | | | | | |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Amount</td> <td style="width: 10%;">claimed:</td> <td style="width: 15%;">\$3638.64</td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> </tr> </table> | | | Amount | claimed: | \$3638.64 | | | |
| Amount | claimed: | \$3638.64 | | | | | | |
| History: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Details</td> <td style="width: 5%;"></td> <td style="width: 10%;">2-1</td> <td style="width: 15%;">10/03/2014</td> <td style="width: 60%;">Claim #2 filed by Discover Bank, Amount claimed: \$3638.64 (Dingus, Mandy)</td> </tr> </table> | | | Details | | 2-1 | 10/03/2014 | Claim #2 filed by Discover Bank, Amount claimed: \$3638.64 (Dingus, Mandy) | |
| Details | | 2-1 | 10/03/2014 | Claim #2 filed by Discover Bank, Amount claimed: \$3638.64 (Dingus, Mandy) | | | | |
| Description: | | | | | | | | |
| Remarks: | | | | | | | | |

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|---|--|---|-------------------------|---|---------------------|------------|---|--|
| Creditor: (8428613) American InfoSource LP as agent for Midland Funding LLC PO Box 268941 Oklahoma City, OK 73126-8941 | Claim No: 3 <i>Original Filed</i> Date: 10/06/2014 <i>Original Entered</i> Date: 10/06/2014 | Status: <i>Filed by:</i> CR <i>Entered by:</i> Lovetta Walls <i>Modified:</i> | | | | | | |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Amount</td> <td style="width: 10%;">claimed:</td> <td style="width: 15%;">\$180.26</td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> </tr> </table> | | | Amount | claimed: | \$180.26 | | | |
| Amount | claimed: | \$180.26 | | | | | | |
| History: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Details</td> <td style="width: 5%;"></td> <td style="width: 10%;">3-1</td> <td style="width: 15%;">10/06/2014</td> <td style="width: 60%;">Claim #3 filed by American InfoSource LP as agent for, Amount claimed: \$180.26 (Walls, Lovetta)</td> </tr> </table> | | | Details | | 3-1 | 10/06/2014 | Claim #3 filed by American InfoSource LP as agent for, Amount claimed: \$180.26 (Walls, Lovetta) | |
| Details | | 3-1 | 10/06/2014 | Claim #3 filed by American InfoSource LP as agent for, Amount claimed: \$180.26 (Walls, Lovetta) | | | | |

Description:

Remarks:

Creditor: (8438955) [History](#)Vidyasagar Lingechetty
37 Magnolia Lane
Jericho NY 11753

Claim No: 4

Original Filed
Date: 10/23/2014
Original Entered
Date: 10/23/2014
Last Amendment
Filed: 11/21/2014
Last Amendment
Entered: 11/21/2014

Status:

Filed by: CR
Entered by: John Lehr
Modified:

| | | | | |
|---------|----------|-------------|--|--|
| Amount | claimed: | \$492207.42 | | |
| Secured | claimed: | \$492207.42 | | |

History:

| | | | | |
|-------------------------|--|---------------------|------------|---|
| Details | | 4-1 | 10/23/2014 | Claim #4 filed by Vidyasagar Lingechetty, Amount claimed: \$405845.87 (amh) |
| Details | | 4-2 | 11/21/2014 | Amended Claim #4 filed by Vidyasagar Lingechetty, Amount claimed: \$492207.42 (Lehr, John) |

Description: (4-1) judgement after trial int from 5/7/12 must be added

Remarks:

Creditor: (8442970)

HSBC NA As trustee for the holders
c/o Davidson Fink LLP
28 East Main Street
Suite 1700
Rochester, NY 14614

Claim No: 5

Original Filed
Date: 10/28/2014
Original Entered
Date: 10/28/2014

Status:

Filed by: CR
Entered by: Scott A Sydelnik
Modified:

| | | | | |
|---------|----------|-------------|--|--|
| Amount | claimed: | \$710916.60 | | |
| Secured | claimed: | \$710916.60 | | |

History:

| | | | | |
|-------------------------|--|---------------------|------------|--|
| Details | | 5-1 | 10/28/2014 | Claim #5 filed by HSBC NA As trustee for the holders, Amount claimed: \$710916.60 (Sydelnik, Scott) |
|-------------------------|--|---------------------|------------|--|

Description: (5-1) 44 Sunset Road, Albertson, NY 11507

Remarks:

Claims Register Summary

Case Name: Geeta Shukla
Case Number: 8-14-74304-las
Chapter: 13
Date Filed: 09/18/2014
Total Number Of Claims: 5

| | |
|------------------------------|--------------|
| Total Amount Claimed* | \$1272242.45 |
| | |

11/21/2014

Live Database: nyeb_live

| | |
|------------------------------|--|
| Total Amount Allowed* | |
|------------------------------|--|

*Includes general unsecured claims

The values are reflective of the data entered. Always refer to claim documents for actual amounts.

| | Claimed | Allowed |
|-----------------------|--------------|---------|
| Secured | \$1266216.64 | |
| Priority | \$1850.16 | |
| Administrative | | |

| PACER Service Center | | | |
|-----------------------------|------------------|-------------------------|---|
| Transaction Receipt | | | |
| 11/21/2014 12:50:11 | | | |
| PACER Login: | rs0482:2627350:0 | Client Code: | |
| Description: | Claims Register | Search Criteria: | 8-14-74304-las Filed or Entered From: 8/3/2014 Filed or Entered To: 12/31/2014 |
| Billable Pages: | 1 | Cost: | 0.10 |